



General Assembly

**Substitute Bill No. 6803**

January Session, 2005

\* \_\_\_\_\_HB06803ENVJUD032905\_\_\_\_\_\*

**AN ACT CONCERNING REVISIONS TO CERTAIN WASTE  
MANAGEMENT PROGRAMS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (1) of section 22a-134 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2005*):

4 (1) "Transfer of establishment" means any transaction or proceeding  
5 through which an establishment undergoes a change in ownership, but  
6 does not mean:

7 (A) [conveyance] Conveyance or extinguishment of an easement; [.]

8 (B) [conveyance] Conveyance of an establishment through a  
9 foreclosure, as defined in subsection (b) of section 22a-452f or  
10 foreclosure of a municipal tax lien; [.]

11 (C) [conveyance] Conveyance of a deed in lieu of foreclosure to a  
12 lender, as defined in and that qualifies for the secured lender  
13 exemption pursuant to subsection (b) of section 22a-452f; [.]

14 (D) [conveyance] Conveyance of a security interest, as defined in  
15 subdivision (7) of subsection (b) of section 22a-452f; [.]

16 (E) [termination] Termination of a lease and conveyance,

17 assignment or execution of a lease for a period less than ninety-nine  
18 years including conveyance, assignment or execution of a lease with  
19 options or similar terms that will extend the period of the leasehold to  
20 ninety-nine years, or from the commencement of the leasehold, ninety-  
21 nine years, including conveyance, assignment or execution of a lease  
22 with options or similar terms that will extend the period of the  
23 leasehold to ninety-nine years, or from the commencement of the  
24 leasehold; [.]

25 (F) [any] Any change in ownership approved by the Probate Court;  
26 [.]

27 (G) [devolution] Devolution of title to a surviving joint tenant, or to  
28 a trustee, executor or administrator under the terms of a testamentary  
29 trust or will, or by intestate succession; [.]

30 (H) [corporate] Corporate reorganization not substantially affecting  
31 the ownership of the establishment; [.]

32 (I) [the] The issuance of stock or other securities of an entity which  
33 owns or operates an establishment; [.]

34 (J) [the] The transfer of stock, securities or other ownership interests  
35 representing less than forty per cent of the ownership of the entity that  
36 owns or operates the establishment; [.]

37 (K) [any] Any conveyance of an interest in an establishment where  
38 the transferor is the sibling, spouse, child, parent, grandparent, child of  
39 a sibling or sibling of a parent of the transferee; [.]

40 (L) [conveyance] Conveyance of an interest in an establishment to a  
41 trustee of an inter vivos trust created by the transferor solely for the  
42 benefit of one or more sibling, spouse, child, parent, grandchild, child  
43 of a sibling or sibling of a parent of the transferor; [.]

44 (M) [any] Any conveyance of a portion of a parcel upon which  
45 portion no establishment is or has been located and upon which there  
46 has not occurred a discharge, spillage, uncontrolled loss, seepage or

47 filtration of hazardous waste, provided either the area of such portion  
48 is not greater than fifty per cent of the area of such parcel or written  
49 notice of such proposed conveyance and an environmental condition  
50 assessment form for such parcel is provided to the commissioner sixty  
51 days prior to such conveyance; [.]

52 (N) [conveyance] Conveyance of a service station, as defined in  
53 subdivision (5) of this section; [.]

54 (O) [any] Any conveyance of an establishment which, prior to July  
55 1, 1997, had been developed solely for residential use and such use has  
56 not changed; [.]

57 (P) [any] Any conveyance of an establishment to any entity created  
58 or operating under chapter 130 or 132, or to an urban rehabilitation  
59 agency, as defined in section 8-292, or to a municipality under section  
60 32-224, or to the Connecticut Development Authority or any  
61 subsidiary of the authority; [.]

62 (Q) [any] Any conveyance of a parcel in connection with the  
63 acquisition of properties to effectuate the development of the overall  
64 project, as defined in section 32-651; [.]

65 (R) [the] The conversion of a general or limited partnership to a  
66 limited liability company under section 34-199; [.]

67 (S) [the] The transfer of general partnership property held in the  
68 names of all of its general partners to a general partnership which  
69 includes as general partners immediately after the transfer all of the  
70 same persons as were general partners immediately prior to the  
71 transfer; [.]

72 (T) [the] The transfer of general partnership property held in the  
73 names of all of its general partners to a limited liability company  
74 which includes as members immediately after the transfer all of the  
75 same persons as were general partners immediately prior to the  
76 transfer; [or]

77 (U) [~~acquisition~~] Acquisition of an establishment by any  
78 governmental or quasi-governmental condemning authority; or

79 (V) Conveyance of any real property or business operation that  
80 would qualify as an establishment solely as a result of (i) the  
81 generation of more than one hundred kilograms of universal waste in  
82 a calendar month, (ii) the storage, handling or transportation of  
83 universal waste generated at a different location, or (iii) activities  
84 undertaken at a universal waste transfer facility, provided any such  
85 real property or business operation does not otherwise qualify as an  
86 establishment, that there has been no discharge, spillage, uncontrolled  
87 loss, seepage or filtration of a universal waste or a constituent of  
88 universal waste that is a hazardous substance at or from such real  
89 property or business operation and that universal waste is not also  
90 recycled, treated, except for treatment of a universal waste pursuant to  
91 40 CFR 273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or  
92 disposed of at such real property or business operation.

93 Sec. 2. Subdivisions (10) and (11) of section 22a-134 of the general  
94 statutes are repealed and the following is substituted in lieu thereof  
95 (*Effective October 1, 2005*):

96 (10) "Form I" means a written certification by the transferor of an  
97 establishment on a form prescribed and provided by the commissioner  
98 that: (A) No discharge, spillage, uncontrolled loss, seepage or filtration  
99 of hazardous waste or a hazardous substance has occurred at the  
100 establishment which certification is based on an investigation of the  
101 parcel in accordance with prevailing standards and guidelines, or (B)  
102 no discharge spillage, uncontrolled loss, seepage or filtration of  
103 hazardous waste has occurred at the establishment based upon an  
104 investigation of the parcel in accordance with the prevailing standards  
105 and guidelines and the commissioner has determined, in writing, or a  
106 licensed environmental professional has verified, in writing, that any  
107 discharge, spillage, uncontrolled loss, seepage or filtration of a  
108 hazardous substance has been remediated in accordance with the  
109 remediation standards and that since any such written approval or

110 verification, including any approval or verification for a portion of an  
111 establishment, no discharge, spillage, uncontrolled loss, seepage or  
112 filtration of hazardous waste or hazardous substances has occurred at  
113 any portion of the establishment;

114 (11) "Form II" means a written certification by the transferor of an  
115 establishment on a form prescribed and provided by the commissioner  
116 that the parcel has been investigated in accordance with prevailing  
117 standards and guidelines and that (A) any pollution caused by a  
118 discharge, spillage, uncontrolled loss, seepage or filtration of  
119 hazardous waste or a hazardous substance which has occurred from  
120 the establishment has been remediated in accordance with the  
121 remediation standards and that the remediation has been approved in  
122 writing by the commissioner or has been verified pursuant to section  
123 22a-133x or section 22a-134a in writing attached to such form by a  
124 licensed environmental professional to have been performed in  
125 accordance with the remediation standards and that since any such  
126 written approval or verification, including any approval or verification  
127 for a portion of an establishment, no discharge, spillage, uncontrolled  
128 loss, seepage or filtration of hazardous waste or hazardous substances  
129 has occurred at any portion of the establishment, (B) the commissioner  
130 has determined in writing or a licensed environmental professional has  
131 verified pursuant to section 22a-133x or section 22a-134a, as amended  
132 by this act, in writing, attached to the form that no remediation is  
133 necessary to achieve compliance with the remediation standards, or  
134 (C) a Form IV verification was previously submitted to the  
135 commissioner and, since the date of the submission of the Form IV, no  
136 discharge, spillage, uncontrolled loss, seepage or filtration of  
137 hazardous waste or a hazardous substance has occurred at the  
138 establishment, which certification is based on an investigation of the  
139 parcel in accordance with prevailing standards and guidelines.

140 Sec. 3. Section 22a-134 of the general statutes is amended by adding  
141 subdivisions (26) and (27) as follows (*Effective October 1, 2005*):

142 (NEW) (26) "Universal waste" means batteries, pesticides,

thermostats, lamps and used electronics regulated as a universal waste under regulations adopted pursuant to subsection (c) of section 22a-449. "Universal waste" does not mean (A) batteries, pesticides, thermostats and lamps that are not covered under 40 CFR Part 273, or (B) used electronics that are not regulated as a universal waste under regulations adopted pursuant to subsection (c) of section 22a-449.

(NEW) (27) "Universal waste transfer facility" means any facility related to transportation, including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

Sec. 4. Subsections (g) and (h) of section 22a-134a of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

(g) (1) If the commissioner notifies the certifying party to a Form III or Form IV that a licensed environmental professional may verify the remediation, such certifying party shall, on or before thirty days of the receipt of such notice or such later date as may be approved in writing by the commissioner, submit a schedule for [investigating and remediating the establishment] the investigation of the parcel and remediation of the establishment. Such schedule shall, unless a later date is specified in writing by the commissioner, provide that the investigation shall be completed within two years of the date of receipt of such notice and that remediation shall be initiated within three years of the date of receipt of such notice. The schedule shall also include a schedule for providing public notice of the remediation prior to the initiation of such remediation in accordance with subsection (i) of this section. The commissioner shall notify such certifying party if the commissioner determines that the commissioner's review and written approval is necessary. Such certifying party shall investigate the parcel and remediate the establishment in accordance with the proposed schedule or the schedule specified by the commissioner. [Such certifying party shall submit to the commissioner an independent

176 verification by a licensed environmental professional that the  
177 establishment has been remediated in accordance with the remediation  
178 standards, and as applicable, a Form IV verification.] When  
179 remediation of the entire establishment is complete, the certifying  
180 party shall submit to the commissioner a final verification by a licensed  
181 environmental professional. Any such final verification may include  
182 and rely upon a verification for a portion of the establishment  
183 submitted pursuant to subdivision (2) of this subsection.

184 (2) If a certifying party completes the remediation for a portion of an  
185 establishment, such party may submit a verification by a licensed  
186 environmental professional for any such portion of an establishment.  
187 The certifying party shall be deemed to have satisfied the requirements  
188 of this subsection for that portion of the establishment covered by any  
189 such verification, but shall be responsible for investigation and  
190 remediation of the remainder of the establishment not covered by such  
191 verification. If any portion of an establishment for which a verification  
192 is submitted pursuant to this subdivision is transferred, conveyed or  
193 undergoes a change in ownership before remediation of the entire  
194 establishment is complete, the certifying party shall provide notice to  
195 the commissioner of such transfer, conveyance or change in  
196 ownership. Such notice shall be provided to the commissioner within  
197 thirty days of any such transfer, conveyance or change in ownership.

198 (h) (1) If the commissioner notifies the certifying party to a Form III  
199 or Form IV that the commissioner's review and written approval of the  
200 investigation of the parcel and remediation of the establishment is  
201 required, such certifying party shall, on or before thirty days of the  
202 receipt of such notice or such later date as may be approved in writing  
203 by the commissioner, submit for the commissioner's review and  
204 written approval a proposed schedule for: [(1)] (A) Investigating the  
205 parcel and remediating the establishment; [(2)] (B) submitting to the  
206 commissioner scopes of work, technical plans, technical reports and  
207 progress reports related to such investigation and remediation; and  
208 [(3)] (C) providing public notice of the remediation prior to the  
209 initiation of such remediation in accordance with subsection (i) of this

210 section. Upon the commissioner's approval of such schedule, such  
211 certifying party shall, in accordance with the approved schedule,  
212 submit scopes of work, technical plans, technical reports and progress  
213 reports to the commissioner for the commissioner's review and written  
214 approval. Such certifying party shall perform all actions identified in  
215 the approved scopes of work, technical plans, technical reports and  
216 progress reports in accordance with the approved schedule. The  
217 commissioner may approve in writing any modification proposed in  
218 writing by such certifying party to such schedule or investigation and  
219 remediation. The commissioner may, at any time, notify such  
220 certifying party in writing that the commissioner's review and written  
221 approval is not required and that a licensed environmental  
222 professional may verify that the remediation has been performed in  
223 accordance with the remediation standards.

224 (2) A certifying party may complete the remediation of a portion of  
225 an establishment and request that the commissioner determine that the  
226 requirements of this subsection have been satisfied for any such  
227 portion of the establishment. If the commissioner determines that any  
228 such remediation is complete, the certifying party shall be deemed to  
229 have satisfied the requirements of this subsection for any such portion  
230 of an establishment. Any determination by the commissioner that  
231 remediation at the entire establishment has been completed may  
232 include and rely upon any determination made pursuant to this  
233 subdivision that remediation is complete at a portion of an  
234 establishment. If any portion of an establishment for which the  
235 commissioner determines that remediation is complete pursuant to  
236 this subdivision is transferred, conveyed or undergoes a change in  
237 ownership before remediation of the entire establishment is complete,  
238 the certifying party shall provide notice to the commissioner of such  
239 transfer, conveyance or change in ownership. Such notice shall be  
240 provided to the commissioner within thirty days of any such transfer,  
241 conveyance or change in ownership.

242 Sec. 5. Subsection (l) of section 22a-134a of the general statutes is  
243 repealed and the following is substituted in lieu thereof (*Effective*



244 October 1, 2005):

245 (l) Notwithstanding any other provisions of this section, no person  
246 shall be required to comply with the provisions of sections 22a-134 to  
247 22a-134e, inclusive, as amended by this act, when transferring real  
248 property (1) (A) for which a Form I or Form II has been filed for the  
249 transfer of the parcel on or after October 1, 1995, and for which no  
250 discharge, spillage, uncontrolled loss, seepage or filtration of  
251 hazardous waste or hazardous substances has occurred at any portion  
252 of the establishment since the Form I or Form II was filed, or (B) for  
253 which parcel a Form III or Form IV has been filed and which has been  
254 remediated and such remediation has been approved, in writing, by  
255 the commissioner or has been verified in writing in accordance with  
256 this section by a licensed environmental professional that an  
257 investigation has been performed in accordance with prevailing  
258 standards and guidelines and that the remediation has been performed  
259 in accordance with the remediation standards, and that since any such  
260 written or approval or verification, including any approval or  
261 verification for a portion of an establishment, no discharge, spillage,  
262 uncontrolled loss, seepage or filtration of hazardous waste or  
263 hazardous substances has occurred at any portion of the establishment,  
264 and (2) at which no activities described in subdivision (3) of section  
265 22a-134 have been conducted since the date of such approval or  
266 verification or the date on which the Form I or Form II was filed.

267 Sec. 6. Subsections (e) and (f) of section 22a-133v of the general  
268 statutes are repealed and the following is substituted in lieu thereof  
269 (*Effective October 1, 2005*):

270 (e) The board shall authorize the commissioner to issue a license  
271 under subsection (d) of section 22a-133m, sections 22a-184 to 22a-184e,  
272 inclusive, this section and section 22a-133w to any person who  
273 demonstrates to the satisfaction of the board that such person: (1) (A)  
274 Has for a minimum of eight years engaged in the investigation and  
275 remediation of releases of hazardous waste or petroleum products into  
276 soil or groundwater, including a minimum of four years in responsible

277 charge of investigation and remediation of the release of hazardous  
278 waste or petroleum products into soil or groundwater, and holds a  
279 bachelor's or advanced degree from an accredited college or university  
280 in a related science or related engineering field or is a professional  
281 engineer licensed in accordance with chapter 391, or (B) has for a  
282 minimum of fourteen years engaged in the investigation and  
283 remediation of releases of hazardous waste or petroleum products into  
284 soil or groundwater, including a minimum of seven years in  
285 responsible charge of investigation and remediation of hazardous  
286 waste or petroleum products into soil or groundwater; (2) has  
287 successfully passed a written examination, or a written and oral  
288 examination, prescribed by the board and approved by the  
289 commissioner, which shall test the applicant's knowledge of the  
290 physical and environmental sciences applicable to an investigation of a  
291 polluted site and remediation conducted in accordance with  
292 regulations adopted by the commissioner under section 22a-133k and  
293 any other applicable guidelines or regulations as may be adopted by  
294 the commissioner; and (3) has paid an examination fee of one hundred  
295 eighty-eight dollars to the commissioner. In considering whether a  
296 degree held by an applicant for such license qualifies for the  
297 educational requirements under this section, the board may consider  
298 all undergraduate, graduate, postgraduate and other courses  
299 completed by the applicant.

300 (f) The board shall authorize the commissioner to issue a license to  
301 any applicant who, in the opinion of the board, has satisfactorily met  
302 the requirements of this section. The issuance of a license by the  
303 commissioner shall be evidence that the person named therein is  
304 entitled to all the rights and privileges of a licensed environmental  
305 professional while such license remains unrevoked or unexpired. A  
306 licensed environmental professional shall pay to the commissioner an  
307 annual fee of three hundred thirty-eight dollars, due and payable on  
308 July first of every year beginning with July first of the calendar year  
309 immediately following the year of license issuance. The commissioner,  
310 with the advice and assistance of the board, may adopt regulations in

311 accordance with the provisions of chapter 54, pertaining to the design  
312 and use of seals by licensees under this section and governing the  
313 license issuance and renewal process, including, but not limited to,  
314 procedures for allowing the renewal of licenses when an application is  
315 submitted not later than six months after the expiration of the license  
316 without the applicant having to take the examination required under  
317 subsection (e) of this section.

318 Sec. 7. Section 22a-463 of the general statutes is repealed and the  
319 following is substituted in lieu thereof (*Effective October 1, 2005*):

320 As used in sections 22a-463 to 22a-469, inclusive:

321 [(a)] (1) "Commissioner" means the Commissioner of Environmental  
322 Protection.

323 [(b)] (2) "PCB" means the class of organic compounds known as  
324 polychlorinated biphenyls or terphenyls and includes any of several  
325 compounds produced by replacing two or more hydrogen atoms on  
326 the biphenyl or terphenyl molecule with chlorine.

327 [(c)] (3) "Incidental amounts of PCB" means amounts of the  
328 compound PCB in an item, product or material which are beyond the  
329 control of the person manufacturing, selling for use, or using such  
330 item, product or material.

331 (4) "Dispose" means to intentionally or unintentionally discard,  
332 throw away or otherwise complete or terminate the useful life of PCBs  
333 and items containing PCBs. "Dispose" includes spills, leaks and other  
334 uncontrolled discharges of PCBs, as well as actions relating to  
335 containing, transporting, destroying, degrading, decontaminating or  
336 confining PCBs and items containing PCBs.

337 Sec. 8. Section 22a-467 of the general statutes is repealed and the  
338 following is substituted in lieu thereof (*Effective October 1, 2005*):

339 No person shall dispose of the compound PCB or any item, product  
340 or material containing the compound PCB except in accordance with a

341 permit issued pursuant to section 22a-208a, 22a-430 or 22a-454.  
342 Notwithstanding the provisions of this section, a person or  
343 municipality may dispose of the compound PCB, or the item, product  
344 or material containing the compound PCB, in accordance with a  
345 written approval by the commissioner if such disposal (1) results in  
346 destruction of the compound PCB; or (2) is not inconsistent with the  
347 provisions of Part 761 of Title 40 of the Code of Federal Regulations.  
348 The commissioner may include in any such approval such conditions  
349 as he deems appropriate to protect the environment and human  
350 health. For purposes of this section, person includes any responsible  
351 corporate officer or municipal official. [and "dispose" means to  
352 incinerate or treat the compound PCB or any item, product or material  
353 containing the compound PCB, or to discharge, deposit, inject, dump  
354 or place the compound PCB or any item, product or material  
355 containing the compound PCB into or on land or water so that such  
356 compound, item, product or material enters the environment, is  
357 emitted into the air, or is discharged into any waters, including  
358 groundwaters.]

359 Sec. 9. Subdivisions (1) to (4), inclusive, of section 22a-255h of the  
360 general statutes are repealed and the following is substituted in lieu  
361 thereof (*Effective October 1, 2005*):

362 As used in sections 22a-255g to 22a-255m, inclusive:

363 (1) "Package" means any container, produced either domestically or  
364 in a foreign country, used for the marketing, protecting or handling of  
365 a product and includes a unit package, an intermediate package and a  
366 shipping container, as defined in the American Society of Testing and  
367 Materials specification D966. "Package" also means any unsealed  
368 receptacle such as a carrying case, crate, cup, pail, rigid foil or other  
369 tray, wrapper or wrapping film, bag or tub. [but shall not include any  
370 glass, ceramic or metal receptacle which is intended to be reusable or  
371 refillable.]

372 (2) "Distributor" means any person who takes title or delivery from

373 the manufacturer of a package, packaging component or product,  
374 produced either domestically or in a foreign country, to use for  
375 promotional purposes or to sell.

376 (3) "Packaging component" means any part of a package, produced  
377 either domestically or in a foreign country, including, but not limited  
378 to, any interior or exterior blocking, bracing, cushioning,  
379 weatherproofing, exterior strapping, coating, closure, ink, label, dye,  
380 pigment, adhesive, stabilizer or other additive. Tin-plated steel that  
381 meets specification A623 of the American Society of Testing and  
382 Materials shall be considered as a single packaging component.  
383 [Electrolytic galvanized steel that meets specification A879 of the  
384 American Society of Testing and Materials and hot-dipped coated  
385 galvanized steel that meets specification A525 of the American Society  
386 of Testing and Materials shall be treated in the same manner as tin-  
387 plated steel] Electro-galvanized coated steel and hot dipped coated  
388 galvanized steel that meets the American Society of Testing and  
389 Materials specifications A653, A924, A879 and A591 shall be treated in  
390 the same manner as tin-plated steel.

391 (4) "Commissioner" means the Commissioner of Environmental  
392 Protection or an authorized agent or designee of the commissioner.

393 Sec. 10. Subdivisions (12) to (14), inclusive, of section 22a-255h of the  
394 general statutes are repealed and the following is substituted in lieu  
395 thereof (*Effective October 1, 2005*):

396 (12) "Manufacturer" means any person [, firm, association,  
397 partnership or corporation] producing a package or packaging  
398 component as defined in subdivision (3) of this section, as amended by  
399 this act.

400 (13) "Manufacturing" means the physical or chemical modification  
401 of a material to produce packaging or packaging components.

402 (14) "Supplier" means any person, firm, association, partnership or  
403 corporation which sells, offers for sale or offers for promotional

404 purposes packages or packaging components which will be used by  
405 any other person [, firm, association, partnership or corporation] to  
406 package a product.

407 Sec. 11. Subsection (a) of section 22a-255i of the general statutes is  
408 repealed and the following is substituted in lieu thereof (*Effective*  
409 *October 1, 2005*):

410 (a) As soon as feasible, but not later than October 1, 1992, no  
411 package or packaging component shall be offered for sale or  
412 promotional purposes in this state, by its manufacturer or distributor,  
413 if it is composed of any lead, cadmium, mercury or hexavalent  
414 chromium which has been intentionally introduced during  
415 manufacturing or distribution, as opposed to the incidental presence of  
416 any of these substances.

417 Sec. 12. Section 22a-255j of the general statutes is repealed and the  
418 following is substituted in lieu thereof (*Effective October 1, 2005*):

419 All packages and packaging components shall be subject to sections  
420 22a-255g to 22a-255m, inclusive, as amended by this act, except the  
421 following:

422 (1) A package or packaging component which was manufactured  
423 prior to October 1, 1990, and displays a code indicating the date it was  
424 manufactured;

425 (2) A package or packaging component that would not exceed any  
426 maximum concentration set forth in subsection (c) of section 22a-255i  
427 but for the addition or use of recycled materials; provided the  
428 provisions of sections 22a-255g to 22a-255m, inclusive, as amended by  
429 this act, shall apply to such packages on and after January 1, [2000]  
430 2010;

431 (3) A package or packaging component to which lead, cadmium,  
432 mercury or hexavalent chromium have been added in the  
433 manufacturing or distribution process in order to comply with health

434 or safety requirements of federal law, provided the manufacturer of  
435 such a package or packaging component has demonstrated to the  
436 commissioner that such package or packaging component is entitled to  
437 an exemption under this subdivision and the commissioner grants  
438 such exemption. The exemption shall be effective for up to two years  
439 and may be extended if circumstances warrant an extension. An  
440 extension may be granted for up to two years;

441 (4) Any alcoholic liquor bottled prior to October 1, 1992;

442 (5) A package or packaging component to which lead, cadmium,  
443 mercury or hexavalent chromium have been added in the  
444 manufacturing, forming, printing or distribution process for which  
445 there is no feasible alternative to the use of lead, cadmium, mercury or  
446 hexavalent chromium provided the manufacturer of such a package or  
447 packaging component has demonstrated to the commissioner that such  
448 package or packaging component is entitled to an exemption under  
449 this subdivision and the commissioner grants such exemption. The  
450 exemption shall be effective for two years and may be extended if  
451 circumstances warrant an extension. An extension may be granted for  
452 up to two years. For purposes of this subdivision, a use for which there  
453 is no feasible alternative is one which is essential to the protection, safe  
454 handling or function of the package's contents and for which [there is  
455 no substitute] technical constraints preclude the substitution of other  
456 materials. For purposes of this subdivision, a use for which there is no  
457 feasible alternative shall not include the use of any lead, cadmium,  
458 mercury or hexavalent chromium for the purpose of marketing;

459 (6) A package or packaging component that is reused but exceeds  
460 contaminant levels set forth in subsection (c) of section 22a-255i,  
461 provided (A) the product being conveyed by such package or  
462 packaging component is regulated under federal or state health or  
463 safety requirements; (B) the transportation of such package or  
464 packaging component is regulated under federal or state  
465 transportation requirements; (C) the disposal of the package or  
466 packaging component is performed according to federal or state

467 radioactive or hazardous waste disposal requirements; and (D) the  
468 manufacturer of such package or packaging component has  
469 demonstrated to the commissioner that such package or packaging  
470 component is entitled to an exemption under this subdivision and the  
471 commissioner grants such exemption. Any exemption granted under  
472 this subdivision shall expire on January 1, [2000] 2010;

473 (7) A package or packaging component which is reusable and has a  
474 controlled distribution and reuse but which exceeds the contaminant  
475 levels set forth in subsection (c) of section 22a-255i, provided the  
476 manufacturer or distributor of such package or packaging component  
477 petitions the commissioner for an exemption and the commissioner  
478 grants such exemption. A manufacturer or distributor petitioning the  
479 commissioner for such an exemption shall (A) satisfactorily  
480 demonstrate that the environmental benefit of the reusable packaging  
481 or packaging component is significantly greater as compared to the  
482 same package or packaging component manufactured in compliance  
483 with the contaminant levels set forth in subsection (c) of section 22a-  
484 255i, and (B) submit a written plan including, at a minimum, the  
485 following elements: (i) A means of identifying in a permanent and  
486 visible manner those reusable packages or packaging components  
487 containing regulated metals for which the exemption is sought; (ii) a  
488 method of regulatory and financial accountability such that a specified  
489 percentage of such reusable packaging or packaging components  
490 manufactured and distributed to other persons are not discarded by  
491 those persons after use, but are returned to the manufacturer or his  
492 designee; (iii) a system of inventory and record maintenance to  
493 account for the reusable packaging or packaging components placed in  
494 and removed from service; (iv) a means of transforming returned  
495 packaging or packaging components that are no longer reusable into  
496 recycled materials for manufacturing or into manufacturing wastes  
497 which are subject to existing federal or state laws or regulations to  
498 ensure that these wastes do not enter the commercial or municipal  
499 waste stream; and (v) a system for annually reporting to the  
500 commissioner any changes to the system or changes regarding the



501 manufacturer's designee. Any exemption granted under this  
502 subdivision shall expire on January 1, [2000] 2010;

503 (8) A glass or ceramic package or packaging component that has a  
504 vitrified label which, when prepared according to the American  
505 Society for Testing and Materials specification C1606-04 and when  
506 tested in accordance with the Toxicity Characteristic Leaching  
507 Procedures of the United States Environmental Protection Agency Test  
508 Method and Publication SW 846, third edition, "Test Methods for  
509 Evaluating Solid Waste", does not exceed one part per million for  
510 cadmium, five parts per million for hexavalent chromium and five  
511 parts per million for lead.

512 Sec. 13. Subsection (a) of section 22a-255m of the general statutes is  
513 repealed and the following is substituted in lieu thereof (*Effective*  
514 *October 1, 2005*):

515 (a) The [department] commissioner may, in consultation with the  
516 [Source Reduction Council of the Council of Northeastern Governors]  
517 other member states of the Toxics in Packaging Clearing House,  
518 review the effectiveness of sections 22a-255g to 22a-255m, inclusive, as  
519 amended by this act, and provide a report based on such review to the  
520 Governor and the General Assembly. The report may describe  
521 substitutes which manufacturers and distributors of packages and  
522 packaging components have used in place of lead, mercury, cadmium  
523 and hexavalent chromium, and may contain recommendations  
524 concerning (1) other toxic substances contained in packaging that  
525 should be added to those regulated under the provisions of sections  
526 22a-255g to 22a-255m, inclusive, as amended by this act, in order to  
527 further reduce the toxicity of packaging waste, and (2) the advisability  
528 of retaining the exemption provided in subdivision (2) of section 22a-  
529 255j, as amended by this act.

530 Sec. 14. Subsection (b) of section 22a-449 of the general statutes is  
531 repealed and the following is substituted in lieu thereof (*Effective*  
532 *October 1, 2005*):

533 (b) The commissioner may: (1) License terminals in the state for the  
534 loading or unloading of oil or petroleum or chemical liquids or solid,  
535 liquid or gaseous products or hazardous wastes and shall adopt, in  
536 accordance with chapter 54, reasonable regulations in connection  
537 therewith for the purposes of identifying terminals subject to licensure  
538 and protecting the public health and safety and for preventing the  
539 discharge, spillage, uncontrolled loss, seepage or filtration of oil or  
540 petroleum or chemical liquids or solid, liquid or gaseous products or  
541 hazardous wastes. Each license issued under this section shall be valid  
542 for a period of not more than [three years commencing July first] ten  
543 years from the date of issuance, unless sooner revoked by the  
544 commissioner, and there shall be charged for each such license or  
545 renewal thereof fees established by regulation sufficient to cover the  
546 reasonable cost to the state of inspecting and licensing such terminals;  
547 (2) provide by regulations for the establishment and maintenance in  
548 operating condition and position of suitable equipment to contain as  
549 far as possible the discharge, spillage, uncontrolled loss, seepage or  
550 filtration of any oil or petroleum or chemical liquids or solid, liquid or  
551 gaseous products or hazardous wastes; (3) inspect periodically all  
552 hoses, gaskets, tanks, pipelines and other equipment used in  
553 connection with the transfer, transportation or storage of oil or  
554 petroleum or chemical liquids or solid, liquid or gaseous products or  
555 hazardous wastes to make certain that they are in good operating  
556 condition, and order the renewal of any such equipment found unfit  
557 for further use. No person shall commence operation of any such  
558 terminal in this state on or after July 1, 1993, without a license issued  
559 by the commissioner. Any person who operates any such terminal  
560 without a license issued by the commissioner shall be fined not more  
561 than five thousand dollars per day during any period of unlicensed  
562 operation.

563 Sec. 15. Section 22a-611 of the general statutes is repealed and the  
564 following is substituted in lieu thereof (*Effective October 1, 2005*):

565 The owner or operator of a facility required to complete a toxic  
566 release form under Section 313 of the Emergency Planning and

567 Community Right-to-Know Act of 1986 shall annually submit such  
568 form to the commission on or before the first of July [1, 1990, and  
569 annually thereafter] or a date established by the United States  
570 Environmental Protection Agency, whichever comes later.

571 Sec. 16. Subsections (a) to (d), inclusive, of section 22a-208a of the  
572 general statutes are repealed and the following is substituted in lieu  
573 thereof (*Effective October 1, 2005*):

574 (a) The Commissioner of Environmental Protection may issue, deny,  
575 modify, renew, suspend, revoke or transfer a permit, under such  
576 conditions as he may prescribe and upon submission of such  
577 information as he may require, for the construction, alteration and  
578 operation of solid waste facilities, in accordance with the provisions of  
579 this chapter and regulations adopted pursuant to this chapter.  
580 Notwithstanding the provisions of this section, the commissioner shall  
581 not issue (1) a permit for a solid waste land disposal facility on former  
582 railroad property until July 1, 1989, unless the commissioner makes a  
583 written determination that such facility is necessary to meet the solid  
584 waste disposal needs of the state and will not result in a substantial  
585 excess capacity of solid waste land disposal areas or disrupt the  
586 orderly transportation of or disposal of solid waste in the area affected  
587 by the facility, or (2) an operational permit for a resources recovery  
588 facility unless the applicant has submitted a plan pursuant to section  
589 22a-208g for the disposal or recycling of ash residue expected to be  
590 generated at the facility in the first five years of operation. In making a  
591 decision to grant or deny a permit to construct a solid waste land  
592 disposal facility, including a vertical or horizontal landfill expansion,  
593 the commissioner shall consider the character of the neighborhood in  
594 which such facility is located and may impose requirements for hours  
595 and routes of truck traffic, security and fencing and for measures to  
596 prevent the blowing of dust and debris and to minimize insects,  
597 rodents and odors. In making a decision to grant or deny a permit to  
598 construct or operate a new transfer station, the commissioner shall  
599 consider whether such transfer station will result in disproportionately  
600 high adverse human health or environmental effects. [The

601 commissioner shall not authorize under a general permit or issue an  
602 individual permit under this section to establish or construct a new  
603 volume reduction plant or transfer station located, or proposed to be  
604 located, within one-quarter mile of a child day care center, as defined  
605 in subdivision (1) of subsection (a) of section 19a-77, in a municipality  
606 with a population greater than one hundred thousand persons  
607 provided such center is operating as of July 8, 1997. The commissioner  
608 may modify or renew a permit for an existing volume reduction plant  
609 or transfer station, in accordance with the provisions of this chapter,  
610 without regard to its location.] In making a decision to grant or deny a  
611 permit to construct an ash residue disposal area, the commissioner  
612 shall consider any provision which the applicant shall make for a  
613 double liner, a leachate collection or detection system and the cost of  
614 transportation and disposal of ash residue at the site under  
615 consideration.

616 [(b) No solid waste facility shall be built or established and no solid  
617 waste facility without a permit to construct shall be altered after July 1,  
618 1971, until the plan, design and method of operation of such facility  
619 have been filed with the department and approved by the  
620 commissioner by the issuance of a permit to construct, provided,  
621 nothing in this chapter or chapter 446e shall be construed to limit the  
622 right of any local governing body to regulate, through zoning, land  
623 usage for solid waste disposal.]

624 (b) No person or municipality shall establish, construct or operate a  
625 solid waste facility without a permit issued by the commissioner under  
626 this section. An application for such permit shall be submitted on a  
627 form prescribed by the commissioner, include such information as the  
628 commissioner may require, including, but not limited to, a closure plan  
629 for such facility, and be accompanied by a fee prescribed in regulations  
630 adopted in accordance with chapter 54. Notwithstanding any  
631 provision, references to a permit to construct or a permit to operate in  
632 a regulation adopted pursuant to section 22a-209 shall be deemed to  
633 mean a permit as required by this subsection. The [commissioner]  
634 applicant shall send a written notification of any application for [a]

635 such permit [to construct] to the chief elected official of each  
636 municipality in which the proposed facility is to be located, within five  
637 business days of the date on which any such application is filed.

638 [(c) No solid waste facility for which a permit to construct is  
639 required shall be operated on and after June 16, 1985, except for  
640 performance testing approved by the commissioner, unless such  
641 facility has been issued a permit to operate. The commissioner may  
642 issue such permit upon determination that the facility (1) will be  
643 operated in accordance with applicable laws or regulations, (2) has  
644 been constructed in accordance with a permit issued pursuant to  
645 subsection (b) of this section, and (3) has satisfactorily completed any  
646 performance tests required by the commissioner. All operating  
647 facilities holding a valid permit to construct on or before June 16, 1985,  
648 shall be issued a permit to operate and shall be allowed to continue  
649 operations prior to the issuance of such permit to operate. The  
650 commissioner shall allow any person who is lawfully disposing of ash  
651 residue within a solid waste disposal area on April 1, 1994, to continue  
652 disposing of such residue within such area until March 1, 1997, or until  
653 the issuance of a final permit to operate a new lined ash landfill in  
654 Hartford.]

655 (c) Upon written notice from the commissioner and in accordance  
656 with a schedule specified by the commissioner in such written notice,  
657 any person or municipality who owns an unpermitted solid waste  
658 disposal area shall (1) submit a closure plan for the commissioner's  
659 review and written approval, provide public notice of such proposed  
660 plan in a manner prescribed by regulations adopted pursuant to  
661 section 22a-133k and close and maintain such area after closure in  
662 accordance with the approved closure plan, or (2) remediate such  
663 disposal area in accordance with a remediation plan approved by the  
664 commissioner or verified by a licensed environmental professional  
665 pursuant to section 22a-134a, 22a-134x or 22a-133y or pursuant to an  
666 order of the commissioner. A fee of three thousand dollars shall  
667 accompany any closure plan submitted pursuant to this subsection.  
668 The commissioner may require the owner of a solid waste disposal

669 area to post sufficient performance bond or other security to ensure  
670 compliance with the approved closure plan. The commissioner may  
671 approve a modification to a closure plan for a solid waste disposal  
672 area. A fee of five hundred dollars shall accompany the request for  
673 such modification. The commissioner may reduce or waive the fees  
674 required by this subsection in cases of financial hardship and may  
675 modify such fees in regulations adopted in accordance with chapter 54.  
676 The commissioner may require a person or municipality to provide  
677 public notice of a proposed modification of a closure plan if the  
678 modification involves any activity that would disrupt the solid waste  
679 or change the use of the solid waste disposal area. Notwithstanding  
680 the provisions of this subsection, the commissioner may order a person  
681 or municipality who establishes or constructs a solid waste disposal  
682 area without first obtaining a permit as required by subsection (b) of  
683 this section to remove any solid waste disposed at such area, to  
684 remediate any pollution caused by such waste, and to properly  
685 dispose of such waste at a lawfully operated solid waste facility.

686 (d) (1) [Except as provided in subdivision (2) of this subsection, no  
687 solid waste facility which] No person or municipality who holds a  
688 permit [to construct shall be altered on and after June 16, 1985, until  
689 the proposed plan, design and] issued under this section shall alter the  
690 design or method of operation of the [altered facility have been filed  
691 with the commissioner and approved by him by issuance of a modified  
692 permit] permitted facility without first obtaining a modified permit.  
693 For the purposes of this section and sections 22a-208, 22a-208b, 22a-  
694 220a, 22a-225 and 22a-226, "alter" means [(A)] to change to any  
695 substantive degree the [approved] design, capacity, volume process or  
696 operation of a solid waste facility [holding a permit to construct,] and  
697 includes, but is not limited to, changes in the approved capacity or  
698 composition of solid waste disposed of, processed, reduced, stored or  
699 recycled at the facility; [, or (B) to change to any substantive degree the  
700 existing design, capacity, volume, process or operation of a solid waste  
701 facility not holding a permit to construct and includes, but is not  
702 limited to, changes in the volume or composition of solid waste

703 disposed, stored, processed, reduced or recycled at the facility.] The  
704 commissioner may approve, in writing, a modification of a closure  
705 plan for a closed permitted solid waste disposal area without  
706 modifying the permit for such area. The commissioner may require a  
707 person who, or a municipality that, requests such modification to  
708 provide public notice of a proposed modification of a closure plan if  
709 the modification involves any activity that would disrupt the solid  
710 waste or change the use of the solid waste disposal area. A fee of five  
711 hundred dollars shall accompany any request for such modification of  
712 a closure plan. The commissioner may reduce or waive such fee in  
713 cases of financial hardship and may modify such fee in accordance  
714 with regulations adopted in accordance with chapter 54.

715 (2) Changes in design, processes or operations, including the  
716 addition of thermal oxidizers or other air pollution control equipment,  
717 made to mitigate, correct or abate odors from a solid waste facility that  
718 is owned or operated by the Connecticut Resources Recovery  
719 Authority and that contracts with more than fifty municipalities, shall  
720 not be considered an alteration requiring a modified permit or minor  
721 permit amendment under this chapter. In addition, notwithstanding  
722 any provision of the general statutes or regulation adopted pursuant to  
723 said statutes, any such change shall not be considered a modification  
724 or new stationary source requiring a permit to construct or operate  
725 under chapter 446c or under any regulation adopted pursuant to  
726 chapter 446c, unless such change is a major modification or a major  
727 stationary source requiring a permit under the federal Clean Air Act  
728 Amendments of 1990. Any person making any such change to an odor  
729 control system at such a facility shall, not more than thirty days after  
730 making such change, submit a written report to the commissioner fully  
731 describing the changes made and the reason for such changes for the  
732 commissioner's review and comment. Nothing in this subdivision shall  
733 affect the commissioner's authority to take any other action to enforce  
734 the requirements of this title.

735 Sec. 17. Section 22a-207 of the general statutes is amended by adding  
736 subdivision (25) as follows (*Effective October 1, 2005*):

737 (NEW) (25) "Person" means any individual, partnership, association,  
738 firm, limited liability company, corporation or other entity, except a  
739 municipality, and includes the federal government, the state or  
740 instrumentality of the state, and any officer or governing or managing  
741 body of any partnership, association, firm, or corporation, or any  
742 member or manager of a limited liability company.

743 Sec. 18. (NEW) (*Effective October 1, 2005*) (a) The Commissioner of  
744 Environmental Protection may issue, modify or revoke orders to  
745 correct or abate violations of chapter 446m of the general statutes,  
746 including, but not limited to, any regulation adopted pursuant to  
747 chapter 446m of the general statutes. Any such order may include  
748 remedial measures necessary to correct or abate such violations. Such  
749 orders may be issued to any person who violates any provision of  
750 chapter 446d of the general statutes or any regulation adopted  
751 pursuant to chapter 446m of the general statutes.

752 (b) Each order issued under chapter 446m of the general statutes  
753 shall be served by certified mail, return receipt requested, or by a state  
754 marshal or indifferent person. If a state marshal or indifferent person  
755 serves the order, a true copy of the order shall be served, and the  
756 original, with a return of such service endorsed thereon, shall be filed  
757 with the commissioner. The order shall be deemed to be issued upon  
758 service or upon deposit in the mail. Any order issued pursuant to  
759 chapter 446d of the general statutes shall state the basis on which it is  
760 issued.

761 (c) Unless a person aggrieved by an order files a written request for  
762 a hearing before the commissioner not later than thirty days after the  
763 date of issuance, such order shall become final. If requested, the  
764 commissioner shall hold a hearing as soon thereafter as practicable. A  
765 request for a hearing shall be a condition precedent to any appeal. The  
766 commissioner may, after the hearing or at any time after the issuance  
767 of the order, modify such order by agreement or extend the time  
768 schedule therefor if the commissioner deems such modification or  
769 extension advisable or necessary, and any such modification or



770 extension shall be deemed to be a revision of an existing order and  
771 shall not constitute a new order. There shall be no hearing subsequent  
772 to or any appeal from any such modification or extension.

773 (d) After hearing, the commissioner shall consider all supporting  
774 and rebutting evidence and affirm, modify or revoke such order in the  
775 commissioner's discretion and shall so notify the recipient of the order  
776 by certified mail, return receipt requested.

777 (e) The final order of the commissioner shall be subject to appeal as  
778 set forth in sections 4-183 and 4-184 of the general statutes, except that  
779 any such appeal shall be taken to the superior court for the judicial  
780 district of New Britain.

781 Sec. 19. (NEW) (*Effective October 1, 2005*) (a) Whenever, in the  
782 judgment of the Commissioner of Environmental Protection, any  
783 person has engaged in or is about to engage in any acts, practices or  
784 omission which constitute, or will constitute, a violation of any  
785 provision of chapter 446m of the general statutes, or any regulation  
786 adopted or order issued pursuant to chapter 446m of the general  
787 statutes, at the request of the Commissioner of Environmental  
788 Protection, the Attorney General may bring an action in the superior  
789 court for the judicial district of New Britain for an order enjoining such  
790 acts or practices, to order remedial measures, or for an order directing  
791 compliance and, upon a showing by the commissioner that such  
792 person has engaged in or is about to engage in any such acts, practices  
793 or omissions, a permanent or temporary injunction, restraining order  
794 or other order may be granted.

795 (b) Any person who violates any provision of chapter 446m of the  
796 general statutes, including, but not limited to, any regulation adopted  
797 or order issued pursuant to chapter 446m of the general statutes, shall  
798 be assessed a civil penalty not to exceed twenty-five thousand dollars  
799 per day, to be fixed by the court, for each offense. Each violation shall  
800 be a separate and distinct offense and, in the case of a continuing  
801 violation, each day's continuance thereof shall be deemed to be a

802 separate and distinct offense. The Attorney General, upon request of  
803 the commissioner, shall institute a civil action in the superior court for  
804 the judicial district of New Britain to recover such penalty.

805 (c) If two or more persons are responsible for a violation of any  
806 provision of chapter 446m of the general statutes, including, but not  
807 limited to, any regulation adopted or order issued pursuant to said  
808 chapter 446m, such persons shall be jointly and severally liable under  
809 this section.

810 (d) Any action brought by the Attorney General pursuant to this  
811 section shall have precedence in the order of trial as provided in  
812 section 52-191 of the general statutes.

813 Sec. 20. (NEW) (*Effective October 1, 2005*) (a) Any person who, with  
814 criminal negligence, violates any provision of chapter 446m of the  
815 general statutes, including, but not limited to, any regulation adopted  
816 or order issued pursuant to chapter 446m of the general statutes, or  
817 who makes any false statement, representation, certification in any  
818 application, notification, request for exemption, record, plan, report or  
819 other document filed or required to be maintained under chapter 446m  
820 of the general statutes, shall be fined not more than twenty-five  
821 thousand dollars per day for each day of violation or be imprisoned  
822 not more than one year, or both. A subsequent conviction for any such  
823 violation shall carry a fine of not more than fifty thousand dollars per  
824 day for each day of violation or imprisonment for not more than two  
825 years, or both.

826 (b) Any person who knowingly violates any provision of chapter  
827 446m of the general statutes, including, but not limited to, any  
828 regulation adopted or order issued pursuant to chapter 446m of the  
829 general statutes, or who makes any false statement, representation, or  
830 certification in any application, notification, request for exemption,  
831 record, plan, report or other document filed or required to be  
832 maintained under chapter 446m of the general statutes, shall be fined  
833 not more than fifty thousand dollars per day for each day of violation

834 or be imprisoned not more than three years, or both. A subsequent  
 835 conviction for any such violation shall carry a fine of not more than  
 836 fifty thousand dollars per day for each day of violation or  
 837 imprisonment for not more than ten years, or both.

838 Sec. 21. Section 22a-207b of the general statutes is repealed. (*Effective*  
 839 *October 1, 2005*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	22a-134(1)
Sec. 2	<i>October 1, 2005</i>	22a-134(10) and (11)
Sec. 3	<i>October 1, 2005</i>	22a-134
Sec. 4	<i>October 1, 2005</i>	22a-134a(g) and (h)
Sec. 5	<i>October 1, 2005</i>	22a-134a(l)
Sec. 6	<i>October 1, 2005</i>	22a-133v(e) and (f)
Sec. 7	<i>October 1, 2005</i>	22a-463
Sec. 8	<i>October 1, 2005</i>	22a-467
Sec. 9	<i>October 1, 2005</i>	22a-255h(1) to (4)
Sec. 10	<i>October 1, 2005</i>	22a-255h(12) to (14)
Sec. 11	<i>October 1, 2005</i>	22a-255i(a)
Sec. 12	<i>October 1, 2005</i>	22a-255j
Sec. 13	<i>October 1, 2005</i>	22a-255m(a)
Sec. 14	<i>October 1, 2005</i>	22a-449(b)
Sec. 15	<i>October 1, 2005</i>	22a-611
Sec. 16	<i>October 1, 2005</i>	22a-208a(a) to (d)
Sec. 17	<i>October 1, 2005</i>	22a-207
Sec. 18	<i>October 1, 2005</i>	New section
Sec. 19	<i>October 1, 2005</i>	New section
Sec. 20	<i>October 1, 2005</i>	New section
Sec. 21	<i>October 1, 2005</i>	Repealer section

**ENV** Joint Favorable Subst. C/R

JUD